

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

| | | |
|---------------------|---|----------------------------------|
| Cynthia J. Daniels, |) | C/A No. 1:15-4371-JMC-PJG |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | REPORT AND RECOMMENDATION |
| |) | |
| ASCO Numatics, |) | |
| |) | |
| Defendant. |) | |
| |) | |

Plaintiff, who is represented by counsel, filed this matter alleging violations of her civil rights by the named defendant. The defendant filed a motion to dismiss on March 4, 2016, pursuant to the Federal Rules of Civil Procedure. (ECF No. 6.) The plaintiff has failed to respond to the motion pursuant to Local Civil Rule 7.06 (D.S.C.).

The court issued an order on March 23, 2016 advising the plaintiff that it appeared to the court that she was not opposing the motion and wished to abandon this action, and giving the plaintiff an additional seven days in which to file her response to the defendant's motion to dismiss. (ECF No. 11.) The plaintiff was specifically warned that if she failed to respond, this action may be decided on the record presented in support of the defendant's motion, see Local Civil Rule 7.06 (D.S.C.), or may be recommended for dismissal with prejudice for failure to prosecute. See Davis v. Williams, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b). Despite this second warning, the plaintiff still did not respond. Moreover, the court has reviewed the defendant's motion and finds the defendant is entitled to dismissal on the grounds asserted in sections III.B., III.C., IV, V, and VI of its motion.

RECOMMENDATION

Accordingly, it is recommended that this action be dismissed with prejudice for lack of prosecution and for the reasons presented by the defendant referenced above. In light of the court's recommendation, the court further recommends that any other pending motions (ECF No. 6) be terminated.


Paige J. Gossett
UNITED STATES MAGISTRATE JUDGE

April 6, 2016
Columbia, South Carolina

The parties are referred to the Notice Page attached hereto.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).